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performance by the mining boss of the duty imposed by the statute. *Held*, that the defendant is liable. *Antioch Coal Co. v. Rocky*, 82 N. E. 76 (Ind.).

For a discussion of the principles involved, see 20 HARV. L. REV. 230.

**BANKRUPTCY — DISCHARGE — ASSIGNMENT OF WAGES AS LIEN ON FUTURE EARNINGS.** — Wages to be earned in an existing employment were assigned as security for a debt. The assignor received his discharge in bankruptcy. The assignee endeavored to collect wages subsequently earned in the course of the original employment. *Held*, that the assignment operates to transfer to the assignee a potential possession of the future wages, which constitutes a lien and is accordingly preserved by § 67 d of the Bankruptcy Act. *Citizens' Loan Ass'n v. Boston & Maine R. R. Co.*, 82 N. E. 696 (Mass.). See NOTES, p. 275.

**CHATTEL MORTGAGES — RIGHTS OF INTERVENING CREDITORS — PARTIAL SALE OF MORTGAGED STOCK BY MORTGAGOR.** — A storekeeper gave a mortgage on his horses, wagons, and stock. The mortgage was duly recorded. Later he became insolvent and was adjudged a bankrupt. He had sold all but \$200 worth of the original stock. *Held*, that the mortgagee's lien attaches to the horses and wagons, but not to the remainder of the stock. *In re Davis*, 155 Fed. 671 (Dist. Ct., E. D. N. Y.).

A chattel mortgage giving the mortgagor a power of sale for his own benefit is void, being fraudulent towards creditors as a matter of law. See 19 HARV. L. REV. 557, 570. Among the conflicting decisions this seems to be the better and majority opinion. Under such a mortgage the mortgagee obtains no substantial security. He cannot, therefore, have entered into the transaction to secure himself, and consequently must have acted for the mortgagor. Therefore his intent must have been fraudulent, for to allow the mortgagor to have the full use of property which is forever safe from attachment defrauds his creditors. Evidence of a sale of the stock by the mortgagor for his own benefit justifies the inference of an agreement to that effect outside of the mortgage, rendering it void. *Simmons v. Jenkins*, 76 Ill. 479; *Hangen v. Hachemeister*, 114 N. Y. 566. But if fraudulent as to the stock, the mortgage is void *in toto*, and it would seem that the mortgagee had lost his lien on the horses and wagons also. *Russell v. Wynne*, 37 N. Y. 591.

**CONFLICT OF LAWS — PERSONAL JURISDICTION — CONSENT AS BASIS.** — The defendant, while residing in Australia, entered into a partnership with the plaintiff for working a gold mine there, but later moved to England. Afterwards the plaintiff brought suit in Australia to dissolve the partnership, and obtained a decree against the defendant for the latter's share of the deficiency which existed after settlement of the partnership accounts. The defendant did not appear in the Australian court, personally or by attorney. The plaintiff now brings action in England on the Australian judgment. *Held*, that since the Australian court was without jurisdiction, its judgment cannot be enforced in England. *Emanuel v. Symon*, 24 T. L. R. 85 (Eng., Ct. App., Nov. 15, 1907).

This decision reverses the decision of the lower court, criticized in 20 HARV. L. REV. 323.

**CONSTITUTIONAL LAW — DUE PROCESS OF LAW — RIGHT TO HEARING ON TAX ASSESSMENT.** — The tax law of Georgia provided that on failure to return taxable property for taxation, though without fraud, taxes should be assessed and collected without a hearing on the question of the validity of the assessment. *Held*, that this system does not afford the due process of law required by the Fourteenth Amendment. *Central of Georgia Ry. v. Wright*, 207 U. S. 127.

This case is in accord with the tendency of recent decisions. For a discussion thereof, see 20 HARV. L. REV. 320.

**CONSTITUTIONAL LAW — PRIVILEGES AND IMMUNITIES — RIGHT TO SUE IN COURTS OF A FOREIGN STATE.** — A citizen of Pennsylvania was killed in that state while in the employ of the defendant company. His widow having acquired a right of action under a Pennsylvania statute, brought suit in Ohio.

An Ohio statute provides that when the death by wrongful act of an Ohio citizen in a foreign state creates a right of action there, that right may be enforced in Ohio. *Held*, that the Ohio statute, providing no remedy for the plaintiff, does not make an unconstitutional discrimination between the citizens of different states. *Chambers v. Baltimore & Ohio R. R.*, 207 U. S. 142.

At common law the Ohio courts did not entertain jurisdiction of actions for death by wrongful act arising under foreign laws. *Hover v. Pennsylvania Co.*, 25 Oh. St. 667. The present statute modifies the common law in allowing a remedy for a right so acquired in cases where the deceased was a citizen of Ohio. The citizenship of the person who acquires the right is immaterial. Access to the courts of Ohio will be denied the claimant under the foreign law whether he is a citizen of Ohio or a foreigner, if the deceased was a foreigner, and will be similarly granted if the deceased was an Ohio citizen. Consequently the decision of the court that this statute does not grant fundamental privileges to the citizens of one state which it denies to citizens of other states seems sound. The right of a state to open its courts to its own citizens, and to close them to citizens of other states has never been decided in the Supreme Court. It is interesting to note that the present case assumes, in accordance with previous dicta, that such a discrimination would be unconstitutional. But see 17 HARV. L. REV. 54.

**CONSTRUCTIVE TRUSTS — MISCONDUCT BY NON-FIDUCIARIES — EFFECT OF CO-DEVISEE'S PROMISE TO TESTATOR UPON OTHER CO-DEVISEES.** — By a drafted will R planned to leave his residuary estate to the defendants as tenants in common. Before signing, however, he desired to add a legacy to the plaintiff. Thereupon Y, one of the defendants, promised R that his wish should be executed, and R signed the will as drawn, the other defendants having no knowledge of Y's promise until after R's death. *Held*, that only the share of Y is bound by a trust for the plaintiff. *Powell v. Yearance*, 67 Atl. 892 (N. J., Ct. of Ch.).

Where a devise is secured by an oral promise to apply a part thereof for a third person, the law imposes upon the devisee a trust to fulfill his promise. See 20 HARV. L. REV. 403. Further, where the devise is in joint tenancy, a promise by one joint devisee, though unauthorized by his fellows, imposes a trust upon all. *Will of O'Hara*, 55 N. Y. 403. This is apparently due to the unity of interest among joint tenants. See 13 HARV. L. REV. 520. The English courts, though confessing the inconsistency, apply the doctrine to joint devisees only where the testator is induced to make a will, and not where he is induced to refrain from alteration. *In re Stead*, [1900] 1 Ch. 237. In the present case, there being neither agency nor joint tenancy, the promise of Y is not the promise of his co-devisees. Therefore, if a trust is imposed upon the other defendants, it must be in the absence of bad faith on their part. See 1 BIGELOW, FRAUD, 459. Since the whole doctrine is against the policy of the statute of frauds, it seems better to limit it to cases of clear bad faith. See *McCormick v. Grogan*, 4 Eng. & Ir. App. 82, 89. The cases of co-devisees are usually so excepted. *Edson v. Bartow*, 154 N. Y. 199; *Tee v. Ferris*, 2 Kay & J. 357; *contra*, *Hooker v. Axford*, 33 Mich. 453.

**COPYRIGHTS — INFRINGEMENT — RIGHTS OF ASSIGNEE OF COMMON LAW COPYRIGHT.** — An artist sold to the plaintiff the exclusive right to reproduce one of his paintings. The plaintiff then took out a statutory copyright, and published photographic copies of the original, each bearing upon its face the notice of copyright. The original was never so marked. The defendant also published copies of the original, claiming that the plaintiff had failed to observe the copyright law. *Held*, that when an article is copyrighted the original is not a copy and so need not bear on its face notice of the copyright. *American Tobacco Co. v. Werckmeister*, 207 U. S. 375.

For a discussion of the principles involved, see 19 HARV. L. REV. 380.

**DAMAGES — MEASURE OF DAMAGES — BREACH OF WARRANTY AS TO CHARACTER OF SEEDS.** — The defendant sold to the plaintiff a quantity of